

Colorado Department of Public Health and Environment
Hazardous Materials and Waste Management Division

Comments

Final Proposed Action Memorandum Hot Spot Removal
Rocky Flats Environmental Technology Site Operable Unit No 1 September 1994

GENERAL COMMENTS

ARARs Determination, Section 5.1.5 - The Division is concerned by the DOE's complete disregard of the State of Colorado's authority for the implementation of the Resource Conservation and Recovery Act at the RFETS and the incomplete and inaccurate identification of action-specific ARARs for this action. Specific comments regarding the DOE identification of ARARs for this accelerated response action are listed below. These comments must be resolved to the Division's satisfaction before the Division will grant approval of the PAM.

- a) The text in this section states, "Because this response action will occur on-site, only the substantive ARARs will apply; administrative requirements (such as permits) need not be met." While this may be appropriate for CERCLA response actions at other sites, the RFETS is also a permitted RCRA TSD and must meet all requirements of the Colorado Hazardous Waste Act and its implementing regulations including, but not limited to, hazardous waste permit requirements (6 CCR 1007-3 Part 100) and all applicable requirements of Part 264 (training contingency plan, inspection operating record etc). This section of the text must be corrected to accurately reflect the Division's RCRA/CERCLA authority at the RFETS.
- b) In addressing soil cleanup standards for toluene and tetrachloroethene the text states "These standards will be established in the federal rule that is pending, that will revise the hazardous waste identification process (RCRA)." This statement is not accurate and must be deleted from the PAM. Again, the DOE has failed to acknowledge the State of Colorado's authority to implement RCRA and set cleanup standards for corrective action. The soil cleanup standards for toluene and tetrachloroethene at OU 1 will be determined by the CDFHE and EPA in the CMS/75.
- c) State action specific ARARs for the accelerated response action include but may not be limited to the CERCLA standards for hazardous waste generators (6 CCR 1007-3 Part 262), standards for owners and operators of hazardous waste treatment, storage and disposal facilities (6 CCR 1007-3 Part 264) interim status standards for owners and operators of hazardous waste treatment storage and disposal facilities (6 CCR 1007-3 Part 265) and land disposal restrictions (6 CCR 1007-3 Part 268). A complete state action specific ARARs determination must be included in this section of the PAM.
- d) The RCRA program is administered in the State of Colorado under the Colorado Hazardous Waste Act and its implementing regulations found in 6 CCR 1007-3 and must be appropriately identified and cited in this section. If the CERCLA and Federal RCRA regulations applicable or relevant and appropriate to this accelerated response action are identical, the CERCLA is the appropriate citation. However, in this case the regulations and requirements are not identical. Per the attached draft list Areas where Colorado Hazardous Waste Regulations are More Stringent than Federal Requirements, please note some examples of differences between the two regulations. This section including Table 5-1 must be corrected to accurately reflect the State's authority and the appropriate applicable regulations.
- e) The Division does not agree with the DOE's interpretation of several regulatory requirements as listed in Table 5-1. All requirements should be cited directly from the regulations not interpreted or paraphrased.

ADMIN RECORD

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AREAS WHERE COLORADO
HAZARDOUS WASTE REGULATIONS ARE
MORE STRINGENT THAN FEDERAL REQUIREMENTS

- 1 Colorado regulations require TSD's to submit annual reports (for the purpose of assessing facility permit fees). See 6 CCR 1007-3, Sections 264.75 264.77 265.75 and 265.77
- 2 Colorado has additional satellite accumulation requirements. See 6 CCR 1007 3 Section 262.34(c).
- 3 In Colorado, a copy of the certification by an engineer for freeboard less than 2 feet (60 centimeters) in interim status surface impoundments must be submitted to the Hazardous Materials and Waste Management Division. See 6 CCR 1007 3 Section 265.221(g)
- 4 In Colorado, a copy of the certification by an engineer or chemist that design features will prevent ignitable or reactive wastes from igniting or reacting in surface impoundments must be submitted to the Hazardous Materials and Waste Management Division. See 6 CCR 1007-3, Section 265.229(b).
- 5 Colorado regulations do not contain exemptions from the nonhazardous liquids in landfills ban. See 6 CCR 1007 3 Section 264.314(a) and 265.314(a).
- 6 Colorado regulations prohibit a conditionally exempt small quantity generator from disposing of hazardous waste onsite. In addition, there are no solid waste landfills approved by the Department to accept hazardous waste from a conditionally exempt small quantity generator. See 6 CCR 1007 3 Section 261.5(f)(3)(iv) and (g)(3)(iv)
- 7 Colorado regulations require TSD's and generators to provide both classroom and on the job hazardous waste training to their employees that handle hazardous waste. See 6 CCR 1007 3, Section 264.16 (a) and 265.16(a).
- 8 Colorado regulations prohibit location of new treatment, storage, and disposal facilities within 1000 feet of a fault which has had a displacement in Holocene time. See 6 CCR 1007 3 Sections 264.18(a).
- 9 In Colorado, treatment and storage facilities and existing disposal facilities must be designed, operated, and closed to prevent washout by a 100-year flood event. New disposal facilities are prohibited in 100-year floodplains and there are no provisions for an exemption from the requirement. See 6 CCR 1007 3, Section 264.18(b).
- 10 Colorado requires TSD's and generators to take steps to minimize unplanned releases to groundwater. See 6 CCR 1007 3 Sections 264.31 and 265.31
- 11 In Colorado, TSD's and generators must make hazardous waste preparedness and prevention arrangements with local health departments. See 6 CCR 1007 3 Section 264.37(a) and 265.37(a).

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12. In Colorado, TSD's and generators must design contingency plans to minimize releases to groundwater. See 6 CCR 1007-3 Sections 264.51(a), 264.52(a), 265.51(a), and 265.52(a).
13. Land disposal TSD's in Colorado must record in their operating record the location and quantity of hazardous waste on a map or diagram of each cell or disposal area using a three dimensional grid system. 6 CCR 1007-3 Sections 264.73(a)(2) and 265.73(a)(2).
14. Colorado requires waste piles, land treatment units, and new landfills to design, operate, and maintain a run-on control system capable of handling a 100-year storm event. 6 CCR 1007-3, Sections 264.251(g), 265.253(a)(2), 264.273(c), 265.272(b) and 264.301(g).
15. Colorado requires waste piles, land treatment units, and new landfills to design, operate, and maintain a run-off control system capable of handling a 24-hour 100 year storm event. 6 CCR 1007-3, Sections 264.251(h), 265.253(a)(3), 264.273(d), 264.301(h), and 265.272(c).
16. In Colorado, groundwater monitoring requirements for interim status TSD's may not be waived by the state.
17. With respect to treatability studies, Colorado has more detailed requirements including: (a) more detailed notification requirements; (b) minimum waste storage requirements; (c) a statement from testing facility stating that it has been clean-closed, and (d) minimum personnel training and safety guidelines. See 6 CCR 1007-3 Section 261.4(e) and (f).
18. TSD's, generators, and small quantity generators outside a fire protection district must have a plan providing for their own fire protection that has been approved by the Department. 6 CCR 1007-3 Sections 262.34, 264.31 and 265.31.
19. Colorado has more extensive inspection requirements for Part B permitted TSD's. 6 CCR 1007-3 Sections 264.73(b)(6), 264.15(b)(4).
20. To meet financial test to guarantee closure and/or post-closure for TSD's Colorado requires an A rating rather than a high B rating. 6 CCR 1007-3, Section 266.14.
21. With respect to the financial assurance requirements of Part 266, Colorado removed the trust fund pay-in period for permitted or existing interim status facilities, and requires the trust fund to be fully funded up-front.

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